



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

September 20, 1991

Mr. Allen Beinke
Executive Director
Texas Water Commission
P.O. Box 13087, Capitol Station
Austin, Texas 78711-3087

OR91-429

Dear Mr. Beinke:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10704.

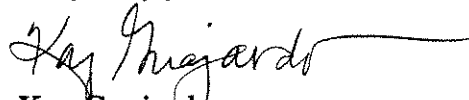
The Texas Water Commission (hereinafter the commission) has received a request pursuant to the Texas Open Records Act, article 6252-17a, V.T.C.S., for information in its file about a certain service station owned by Emerald Marketing Company, "Emro," a subsidiary of Marathon Oil Company. An underground storage tank at the station leaked petroleum products into the soil. In such situations, the owner or operator of the station is required to undertake such remediation efforts as are necessary to remove any contamination, *see* Water Code, V.T.C.S., § 26.351(b); 31 T.A.C. § 334.10, and submit reports about the leak and the clean up effort to the commission. *See* Water Code, § 26.349(a); 31 T.A.C. § 334.75. All of the information in the file relates to the occurrence of the leak at the station and includes correspondence between Marathon, Law Engineering (an environmental consultant firm that conducted various studies at the site of the leak) the commission, and Emro. The file also contains various reports about the leak prepared by a hydrologist -- for example, a contamination assessment study, a status report of monitoring operations, and a remediation system proposal. These reports and correspondence consist of hydrogeological information, such as a description of the site geology, the location of groundwater, a chemical analysis of the water, and maps identifying the location of underground storage tanks and pollution testing wells. You assert this information is protected from required public disclosure by section 3(a)(13) of the Open Records Act, which protects from required public disclosure

geological and geophysical information and data including maps concerning wells, except information filed in connection with an application or proceeding before any agency or an electric log confidential under Subchapter M, Chapter 91, Natural Resources Code.

The information requested here, which pertains to water pollution abatement activities, is similar to the information at issue in Open Records Decision No. 504 (1988). That decision concluded that such information is not protected from required public disclosure by section 3(a)(13). Accordingly, the requested information must be disclosed.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-429.

Very truly yours



Kay Guajardo
Assistant Attorney General
Opinion Committee

Ref.: ID# 10704

KHG/lcd

Enclosure: ORD-504

cc: Texas Media
Freedom of Information Foundation
Texas Association of Broadcasters
Texas Press Association
Common Cause of Texas
Mr. Paul D. Hancock
Mr. Bob L. Warneke, Jr.